

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

WILFREDO PORTALATIN,	:	
Plaintiff,	:	
v.	:	Case No. 3:06-cv-87-KRG-KAP
JEFFREY A. BEARD, <u>et al.</u> ,	:	
Defendants	:	

MEMORANDUM ORDER

This matter was referred to Magistrate Judge Keith A. Pesto for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and subsections 3 and 4 of Local Rule 72.1 for Magistrate Judges.

The Magistrate Judge filed a Report and Recommendation on February 18, 2009, docket no. 61, recommending that plaintiff's motion for summary judgment, docket no. 43, should be granted in part and denied in part. The parties were notified that pursuant to 28 U.S.C. § 636(b)(1), they had ten days to serve and file written objections to the Report and Recommendation. Plaintiff filed objections to the portions of the Report and Recommendation recommending grant of summary judgment to defendants on all but the claim for injunctive relief permitting plaintiff to have his orisha beads replaced. docket no. 62. Defendant did not object to the Report and Recommendation, but filed a motion to stay. docket no. 63. Plaintiff responded to the motion, docket no. 65, characterizing it as an attempt to moot the claim on which the Report and Recommendation was adverse to the Pennsylvania Department of Corrections. Plaintiff also filed an addendum, docket no. 66, claiming he should be awarded punitive damages.

Upon de novo review of the record of this matter, the Report and Recommendation, and the objections and pleadings filed subsequent thereto, the following order is entered:

AND NOW, this 27th day of March, 2009, it is

ORDERED that plaintiff's motion for summary judgment, docket no. 43, is granted in part: the Pennsylvania Department of Corrections shall permit plaintiff to have his orisha beads sent out for repair by a minister of plaintiff's religion. This does not exempt the beads from examination or any other generally applicable security precaution. Summary judgment is entered for the defendants on the balance of the claims contained in the plaintiff's complaint: plaintiff's supplemental arguments concerning his eligibility for any award of damages are specifically rejected. The Report and Recommendation is adopted as the opinion of the Court. The motion to stay, docket no. 63, is denied. The Clerk shall mark this matter closed.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kim R. Gibson", written over a horizontal line.

KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE

Notice by ECF to counsel of record and by U.S. Mail to:

Wilfredo Portalatin DA-0757
S.C.I. Houtzdale
P.O. Box 1000
Houtzdale, PA 16698-1000